

# Coalbed Methane Development Regulatory Overview

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[www2.nature.nps.gov/grd](http://www2.nature.nps.gov/grd)



## Federal Lands

Coalbed methane (CBM) is regulated on Bureau of Land Management (BLM) and U.S. Forest Service lands under these agencies' oil and gas regulations.

On nonfederal lands such as state and private lands, the regulation of CBM varies greatly from state to state. Further information on State requirements will be made available on the NPS's energy website.

CBM is a relatively new resource, so very little caselaw and legislation exist to guide the

agencies and developers. One issue currently faced by BLM is the lack of pre-leasing NEPA analyses at the planning stage. This issue has arisen because many of BLM's resource management plans were completed when CBM was not a contemplated use of the land. The plans adequately address pre-leasing oil and gas concerns, but CBM has different environmental impacts, including the discharge of large volumes of produced water with high sodium concentrations.

## Relevant Case Law

Wyoming Outdoor Council, 156 IBLA 347 (2002): The Interior Board of Land Appeals (IBLA) decided that the BLM violated NEPA by offering three parcels of land for lease that were going to be predominantly used for CBM development, without taking the requisite "hard look" at the effects of CBM activities in the pre-leasing NEPA analysis. IBLA decided that although the resource management plan/environmental impact statement (RMP/EIS) adequately assessed oil and gas development impacts, it did not include CBM environmental impacts because the RMP/EIS was done in 1985 before CBM was a contemplated land use. Thus, the RMP/EIS could not serve as the required pre-leasing EIS. Also, the BLM violated NEPA by applying site-specific EISs from other CBM projects in the area to the leasing stage. Because the studies relied upon were project-specific studies, they did not consider reasonable alternatives and other criteria which could be taken in the pre-leasing stages. None of the documents the BLM used took the requisite hard look required by NEPA because none of them dealt with pre-leasing issues. In order to properly approve the sale of the leases, the BLM needed to conduct further NEPA analyses.

William E. Love, 151 IBLA 309 (2000): Plaintiff unsuccessfully argued that the BLM violated NEPA in approving a CBM development plan because the final EIS (FEIS) accepted and the Record of Decision adopted a new alternative upon which the public never had an opportunity to comment. Plaintiff complained that the FEIS's preferred alternative would have had dramatically different impacts on wildlife than the alternative commented on in the draft EIS (DEIS) and therefore a supplement to the DEIS was necessary. Because the chosen alternative was developed in response to public comments from the DEIS on wildlife concerns, the Interior Board of Land Appeals (IBLA) decided that the preferred alternative in the FEIS was in the range of alternatives considered in the DEIS. The regulations recognize that a possible response to public comment is a modification of the DEIS and that not all modifications need a supplement—only those changes which substantially change the project in relation to environmental concerns. Since the modifications were in response to public comment and actually mitigated potential environmental harms discussed in the DEIS, the changes were consistent with the purpose of NEPA and a supplement was unnecessary.